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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

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ANNE ANDERSON, et al.

vs

CRYOVAC, Division of W. R. Grace & Co.;
W. R. GRACE & CO.; JOHN J. RILEY COMPANY,
Division of Beatrice Foods Co.; BEATRICE
FOODS CO.

Civil Action
No. 82-1672-S

* * * * *

Deposition of JAN BIALACH, taken on

behalf of the Defendant W. R. Grace & Company, pursuant to
the applicable provisions of the Federal Rules of Civil
Procedure, before Valerie T. Wong, Notary Public within and
for the Commonwealth of Massachusetts, at the offices of
Foley, Hoag & Eliot, One Post Office Square, Boston,
Massachusetts, commencing at 12:07 o'clock P.M. on Friday,
June 14, 1985.

Appearances:

Jan Richard Schlichtmann, Esq.
Schlichtmann, Conway & Crowley
171 Milk Street
Boston, Massachusetts
for the Plaintiff.

William J. Cheeseman, Esq.
Foley, Hoag & Eliot
One Post Office Square
Boston, Massachusetts
for the Defendant W. R. Grace & Co.

Mark Stoler, Esq.
W. R. Grace & Co.
62 Whittemore Avenue
Cambridge, Massachusetts
for the Defendant W. R. Grace & Co.

Susan Winkler, Esq.
Hale & Dorr
60 State Street
Boston, Massachusetts
for the Defendant Beatrice Foods Co.

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I N D E X

| Deposition of: | Direct | Cross |
|----------------|--------|-------|
| Jan Bialach | 4 | -- |

EXHIBITS

| <u>Number:</u> | <u>Page:</u> |
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| 1 Subpoena. | |

S T I P U L A T I O N S

It was agreed and stipulated by and among counsel for the respective parties that the witness will read and sign the deposition transcript. The filing of the deposition is waived.

It was further agreed and stipulated all objections, except as to the form of the question, and all motions to strike are reserved to the time of trial.

JAN BIALACH,

a witness called by the Defendant W. R. Grace & Co., first having been duly sworn, on oath deposes and says as follows:

Direct Examination

Q (By Mr. Cheeseman) Mr. Bialach, would you please state your full name?

A Jan Bialach.

Q Where do you live, Mr. Bialach?

A Arlington.

Q What is the street address?

A 58 Teel Street.

Q Would you spell that?

A T-E-E-L.

1
2 Q Let me take a minute to explain to you a few things
3 about what we are doing here today. I am taking your
4 deposition, asking questions of you in connection with
5 the lawsuit which was filed by Anne Anderson and some
6 other people in Woburn against Cryovac and another
7 company. Under the rules of the court, I am entitled
8 to ask you questions and you are required to answer
9 them truthfully. The stenographer will take down my
10 questions and your answers, and she will then type
11 them up. Early next week she will mail you a copy of
12 the transcript to you at your home. I would ask that
13 you read it over and write down any corrections you
14 feel you would like to make in the typewritten answers,
15 and sign the transcript and mail it back to her. She
16 will provide you with an envelope with her name and
17 address on it. You should send it back with your
18 signature and corrections as soon as you can. But in
19 any event, don't take more than a month. Do you under-
20 stand that?

21 A Yes.

22 Q The transcript may then be used by any of the attorneys
23 in the trial or other proceedings in this lawsuit.

24 You have just been sworn in. Do you under-
25 stand the criminal perjury laws of the United States

1
2 apply here and you must tell the truth?

3 A Yes.

4 Q For your information, I am going to give a copy of the
5 transcript to the U. S. Attorney's office and to the
6 Environmental Protection Agency because both of those
7 organizations are studying the problem in Woburn.

8 While we go through the deposition today,
9 if you want to take a break at any time to use the
10 men's room or stretch your legs, just say so and we
11 will be happy to take a break. If there is anything
12 happening or anything I say that you do not understand,
13 just say so and I will be happy to answer any
14 questions you have or clarify anything I have said. Do
15 you understand that?

16 A Yeah.

17 Q Are you a United States citizen?

18 A Not yet.

19 Q What is your immigration status?

20 A Polish.

21 Q Your nationality is Polish?

22 A Yes.

23 Q What is the basis on which you are living in this
24 country?

25 A (Pause).

1
2 Q You have a visa?
3 A Yes; passport, visa and green card.
4 Q Green card?
5 A Yes.
6 Q When did you come to this country?
7 A '65.
8 Q How old were you then?
9 A 32.
10 Q You were 32 then?
11 A Yes.
12 Q Where had you lived before that?
13 A Same place, Arlington.
14 Q Before you came to this country?
15 A Poland.
16 Q In Poland?
17 A Yes.
18 Q You spent all your life in Poland before that?
19 A Yes.
20 Q Who sponsored you to come to this country?
21 A Brother.
22 Q Your brother Stan?
23 A Yes.
24 Q Did you live with him for a while?
25 A Yes.

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Q How long?

A Three months, four months, something like that.

Q Did he get you a job at Cryovac?

A Yes.

Q When did you start working at Cryovac?

A 1965, November or December, something like that.

Q When did you stop working at Cryovac?

A 1979.

Q Do you remember what time of year in '79?

A I think maybe November, something like that. I am not sure.

Q What position did you start with at Cryovac?

A Grinder, clean up.

Q Grinder?

A Wash.

Q What other jobs had you held at Cryovac?

A Welding.

Q When did you start welding?

A I go to school about -- About '71 I finish school. I start in '68. After I have graduation for school. I believe same year or year later I start, you know --

Q Welding?

A Yeah.

Q Did you keep welding right up to 1979?

- 1
- 2 A Yes.
- 3 Q Did you have any other jobs?
- 4 A Yes; all kinds.
- 5 Q What kinds?
- 6 A All kinds.
- 7 Q Like what?
- 8 A Clean up, grinder, clean up. Because no busy for
- 9 welding, I just clean up.
- 10 Q When you went to school, was that for high school?
- 11 A Yes.
- 12 Q You were still working during the daytime?
- 13 A Yes.
- 14 Q Where did you go to school?
- 15 A Cambridge.
- 16 Q Was that to get a high school equivalency degree?
- 17 A Yes.
- 18 Q Why did you leave work for Cryovac in 1979?
- 19 A I no leave. I lay off.
- 20 Q You were layed off?
- 21 A Yes.
- 22 Q Did the company give you any reason for laying you off?
- 23 A No.
- 24 Q Do you have any idea of the reason why?
- 25 A No.

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Q Do you have any suspicion as to why?

A No.

Q Were they laying off other people at the same time?

A Yes; few.

Q Why were those people layed off?

A No idea.

Q Was the work load down at that time?

A No.

Q Was it going up?

A No; stay same position.

Q During the time that you worked for Cryovac were you
ever subject to any disciplinary action?

A No.

Q You were never suspended or reprimanded?

A No.

Q Have you been a practical joker from time to time?

A No.

Q Did you ever put hot metal objects on chairs while
people were about to sit down?

A No.

Q Did you ever catch a person's shirt on fire once?

A Yes.

Q How did that happen?

A Because I no speak English too good and people start

joking to me. I say they better stop because I have no chance to go to foreman and explain to give the -- because they start joking to me and fooling around.

Q What happened with the fire?

A Nothing.

Q Were you involved in an occasion where someone's shirt caught fire?

A No.

Q No?

A No, no. This point I no understood. What fire shirt?

Q Do you recall any incident where a person's shirt caught on fire?

A Yes.

Q Tell me about that.

A I put a paper -- Some guy tape my leg to chair. I working. I find out who it is. I say no do this. He do it again. I take out paper, put back, take a match and I say no again.

Q Did his shirt catch on fire?

A Yes.

Q Was he hurt?

A No.

Q It was put right out?

A Yes.

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Q Did he ever do that again?

A No.

Q Did someone from my office phone you about a week or two ago to try to talk to you? Do you remember that?

A I don't remember.

Q You don't remember someone calling you and asking you if they could talk to you about Cryovac?

A Nobody.

Q Have you talked in the last month with Al Love?

A No.

Q Have you talked in the last month or two with Bob Pasquariella?

A No.

Q Do you know who Bob Pasquariella is?

A No.

Q Do you know who Al Love is?

A Yes.

Q And you haven't talked to him in the last couple of months?

A No.

Q When is the last time you talked to Al Love?

A I believe 1979.

Q Have you talked with anyone in the last couple of months about Cryovac?

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2 A No.

3 Q Didn't a couple of people come to visit you at your
4 present job a couple of months ago?

5 A No.

6 Q Where do you work now?

7 A I work in another company. Another guy work right now,
8 Steve, where I work before. We now with same company.

9 Q What company do you work for?

10 A Varian.

11 Q Varian?

12 A Lexington.

13 Q No one came to talk with you at Varian?

14 A No.

15 Q No one came a couple of months ago?

16 A No.

17 Q Three months ago?

18 A No.

19 Q One month ago?

20 A No.

21 Q All right. Have you ever talked with any people from the
22 Environmental Protection Agency?

23 A No.

24 Q Have you met a fellow named Harrington in the last couple
25 of months?

- 1
- 2 A No.
- 3 Q Have you ever met Jan Schlichtmann before today?
- 4 A Yes.
- 5 Q When is the first time you met Mr. Schlichtmann?
- 6 A My house.
- 7 Q Your house?
- 8 A Yes.
- 9 Q When was that?
- 10 A I guess you were my house, another guy.
- 11 Q Who was the other guy?
- 12 A I don't know.
- 13 Q Ernie Panneton?
- 14 A I don't know.
- 15 Q Does that ring a bell?
- 16 A I guess.
- 17 Q That name is familiar to you?
- 18 A I guess; yeah.
- 19 Q When was this?
- 20 A My house.
- 21 Q When?
- 22 A Same time.
- 23 Q When? Was it a month ago?
- 24 A A month, two months, something like that.
- 25 Q Did Mr. Schlichtmann call first to say he was coming

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over to talk to you?

A I think yes.

Q And then he came to your house?

A Yes.

Q Have you seen him since he came to your house, between then and now?

A Before talk too much. Now no talk.

Q Have you seen him since he came to your house?

A No.

Q Just today?

A Yes.

Q How long was he at your house?

A Two month, one month.

Q Was he there an hour, two hours?

A Close to hour. I no look watch how much minutes.

Q Was there anyone with you other than Mr. Schlichtmann and the person you can't identify?

A Yes.

Q Who?

A No one.

Q No one else?

A No.

Q What did you and Mr. Schlichtmann talk about?

A Everything.

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2 Q I would like you to try to tell me everything you
3 talked about.

4 A Talking for Cryovac, safety, what chemical, you know,
5 another stuff they dump, trash, talk this.

6 Q What did you tell him about that?

7 A What I know.

8 Q What did you tell him?

9 A I use this Oakite, this chemical. Me, another guy
10 spill too much Oakite because I wash Feblin. We make
11 80 feet, 120 feet.

12 Q I can't understand the words that you're using.

13 A Oakite.

14 Q Oakite?

15 A Strong chemical.

16 Q Okay.

17 A We use for conveyor, the Feblin, a big conveyor. I
18 tell him we spill Oakite for outside; that is all.

19 Q Feblin?

20 A Conveyor.

21 Q If you talked for an hour or two hours, you must have
22 had a lot to say. I would like you to try to tell me
23 all you remember, repeat as much of the conversation
24 as you can remember.

25 A That is all. A lot of question he ask me. What we do

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2 do, how many tanks. We have four tanks, two for coat
3 and two water.

4 Q Two tanks for --

5 A Dump for sewer pipe.

6 Q Dump where?

7 A Sewer.

8 Q Down the drain?

9 A Yeah.

10 Q Did you ever take it out back and put it on the ground?

11 A No.

12 Q Did you ever see anyone do that?

13 A No.

14 Q Never saw Tom Barbas do that?

15 A No.

16 Q Never saw Joe Meola do that?

17 A No.

18 Q Do you know who Joe is?

19 A Yes.

20 Q And Tom Barbas?

21 A Yes.

22 Q What else did you tell Mr. Schlichtmann?

23 A I don't know. I don't remember no more.

24 Q You can't remember what else you told Mr. Schlichtmann?

25 A No.

- 1
- 2 Q Did you sign any paper for Mr. Schlichtmann?
- 3 A No.
- 4 Q The person who was with him, did he write down any notes
- 5 and ask you to sign them?
- 6 A No.
- 7 Q Have you ever signed any notes or statement about the
- 8 plant?
- 9 A No.
- 10 Q During the last month or two, who else have you talked
- 11 to about Cryovac besides Mr. Schlichtmann and the person
- 12 that was with him?
- 13 A Nobody.
- 14 Q You talked with your brother Stan?
- 15 A Yes. Every Sunday we see together for church.
- 16 Q You haven't talked with anyone else about Cryovac?
- 17 A No.
- 18 Q Do you know who Cy Whitmar is?
- 19 A Yes.
- 20 Q When is the last time you spoke with Cy Whitmar?
- 21 A 1979.
- 22 Q Did you ever see any holes or pits or trenches out in
- 23 the back?
- 24 A Yes; backyard, a lot of holes.
- 25 Q Holes in the ground?

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A Yes.

Q Describe what you remember of those.

A Too many holes, different sizes.

Q Holes dug in the dirt?

A Yes.

Q Where?

A Backyard.

Q Can you describe where exactly?

A All over the place. It is big yard.

Q Do you remember seeing anyone digging holes with a backhoe or bulldozer?

A No.

Q Do you remember seeing holes in the ground?

A I see.

Q Did you see holes there?

A Yes.

Q Did you ever see anyone filling the holes up again?

A No.

Q Did you ever see anyone dumping in the holes?

A No.

Q Did you ever see anyone bury drums or pails or cans in the holes in back?

A No.

Q Did you ever see anyone pour stuff out of a pail into

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one of those drains, drainage trenches out in the back?

A No.

Q Have you ever seen anybody putting anything on the ground out in back of the plant, any liquid?

A No.

Q What about chips, metal chips from the grinders?

A Go for barrel. I don't know who took chips.

Q Did you ever see anyone pour those on the ground in back?

A No.

Q Did you ever hear anyone talk about pouring stuff out in back?

A This time I no understood because I come and I no spoke English. I don't know people. I don't even know what coffee break time. Maybe people talk I no understood.

Q By 1979 you could understand?

A Yes.

That is different, more safety is coming, start good. Because this time we have no Oakite. This is different chemical we using, because some soap.

Q When you became better at English, did you ever hear anyone telling stories or joking around about stuff that was buried out in back?

A No.

1
2 Q Have you ever heard anyone say that there are any
3 barrels or drums buried underground?

4 A No.

5 Q Or buried under the warehouse?

6 A No.

7 Q Or buried under the main building?

8 A No.

9 Q You never took anything out back and poured it onto the
10 ground?

11 A That is what I say. I use Oakite. I put -- I splash
12 Oakite because we wash them outside.

13 Q I see.

14 A We wash them. Sometimes week maybe, sometimes 100,
15 150 gallon I splash.

16 Q How would you carry it out there?

17 A Black bucket, plastic bucket.

18 Q How big?

19 A 12 gallon, 10 gallon.

20 Q You would carry it out back?

21 A Yes; one hand.

22 I finish this, I got another one.

23 Q You would toss it on the ground?

24 A I take a brush, long brush, and dip it for Oakite and
25 wash conveyor.

- 1
- 2 Q You would wash the machine out on the pavement in back?
- 3 A Backyard; yeah.
- 4 Q And the stuff would splash around a little?
- 5 A All over place.
- 6 Q For how long a period of time did you do that?
- 7 A One, two years, maybe one and half; I am not --
- 8 Q When was that?
- 9 A What year?
- 10 Q Yes.
- 11 A That is very hard to say true. '76, something like
- 12 that. I no sure.
- 13 Q Not before that?
- 14 A Yeah.
- 15 Q You didn't do that before '76?
- 16 A No before. Before we no make contract for this big
- 17 Febline.
- 18 Q When you were cleaning with Oakite out in back, did you
- 19 do that in the wintertime?
- 20 A No. That is cold.
- 21 Q Just during the warm weather?
- 22 A Yes.
- 23 Q About half of the year?
- 24 A Yes.
- 25 Q Where did you clean the machines during the wintertime?

- 1
- 2 A Inside.
- 3 Q What did you do with the Oakite spilled?
- 4 A Go to drain.
- 5 Q Down the drain?
- 6 A Yes.
- 7 Q Did you ever throw any liquid on the ground in back
- 8 other than this Oakite?
- 9 A No.
- 10 Q Did you ever see anyone else do it?
- 11 A No.
- 12 Q Did you ever hear about anyone doing it?
- 13 A No.
- 14 Q When you were cleaning these machines out in back with
- 15 Oakite and the brush, what did you do with the left-
- 16 over Oakite when you were done?
- 17 A No left over. We just brush and finish.
- 18 Q You would use up all the liquid?
- 19 A Yes.
- 20 Q Did you do this on the pavement, on the blacktop?
- 21 A Yes.
- 22 Q You weren't on the dirt?
- 23 A The driveway, after this dirt it all over.
- 24 Q You would throw the stuff out toward the dirt?
- 25 A You have to wash with water.

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Q With a hose?

A With hose and go all over place.

Q Was this right at the back of the plant?

A Yes.

Q On which side, toward the warehouse?

A Close to back door for building.

Q For the assembly area?

A Yes.

Q You were working at the plant when that first addition was added to the main building; is that right?

A Yes.

Q Did you see that construction under way?

A I see men working. I no pay attention.

Q Did you ever --

A Because I have no time to look on other people.

Q Did you ever see anyone burying anything?

A No.

Q Before they poured the concrete?

A No.

Q You were also working at Cryovac when that warehouse was built; is that right?

A Yes.

Q Do you remember watching the construction?

A No.

1

2 Q You didn't go out there and see it?

3 A No.

4 Q You never saw anybody burying anything under that ware-
5 house?

6 A No.

7 Q Did you ever hear anything like that?

8 A No.

9 Q You were there when they built a second addition on the
10 main building; is that right?

11 A Yes.

12 Q Did you ever see them bury anything under the floor
13 before they poured the floor for that?

14 A No.

15 Q Did you ever hear about that?

16 A No.

17 Q Did you ever see any of those machines go further out
18 in back and dig a hole in the ground?

19 A No.

20 Q Did you ever help anybody bury any drums?

21 A No.

22 Q Did your brother Stan ever tell you that there was
23 stuff buried out in back?

24 A No.

25 Q Did your brother Stan ever tell you that they were

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digging in the wrong spot?

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A No.

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Q Did you tell Mr. Schlichtmann ever that Stan had told you they were digging in the wrong spot?

5

6

A No.

7

Q Did your brother Stan ask you something about that a couple of weeks ago?

8

9

A No.

10

Q Didn't you tell Stan two weeks ago that you never told anyone Stan said they were digging in the wrong spot?

11

12

A No.

13

Q Did you ever tell your brother Stan that you know where the EPA should dig to find things out in back?

14

15

A No.

16

Q Do you have any idea where people ought to dig if they want to find something?

17

18

A No. If I know about stuff, I show; I don't know.

19

Q You don't know where anything is buried out in back?

20

A No.

21

Q You don't know if anything is even buried out back?

22

A That is right.

23

Q Have you been telling me the truth about everything today?

24

25

A Yes.

MR. CHEESEMAN: Mr. Schlichtmann?

MR. SCHLICHTMANN: No questions.

Q All right. Valerie Wong will mail you a copy of this testimony. Would you read it and see that she didn't take anything down wrong? If you want to correct anything, you can write the corrections on a piece of paper, write down the page number and line number, and write down what you think the answer should have been. You sign that and mail it back to her.

A Okay.

Q If you could send that back as soon as you can, within the next month.

A Take more than month. I go five weeks vacation start July 24.

Q Could you look at it within the next week?

A If I have chance.

Q I would appreciate it.

A Okay.

(Whereupon the deposition was
adjourned at 12:45.)

C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS)
) ss.
COUNTY OF NORFOLK)

I, Valerie T. Wong, Notary Public within and
for the Commonwealth of Massachusetts, do hereby certify:

That JAN BIALACH, the witness whose
deposition is hereinbefore set forth, was duly sworn by me
and that such deposition is a true record of the testimony
given.

I further certify that I am not related to
any of the parties to this action by blood or marriage, and
that I am in no way interested in the outcome of this
matter.

IN WITNESS WHEREOF, I have hereunto set my
hand and affixed my seal of office this 17th day of
June, 1985.


NOTARY PUBLIC

My Commission Expires:
November 5, 1987.